

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
HUNTINGTON DIVISION**

**MARTHA BLENKO,  
LAURA MULLARKY, and  
JANE DOE, individually  
and on behalf of all others similarly situated,**

**Plaintiffs,**

**v.**

**CIVIL ACTION NO. 3:21-cv-00315  
Honorable Judge Robert C. Chambers**

**CABELL HUNTINGTON HOSPITAL, INC.,**

**Defendant.**

**JOINT MOTION TO CERTIFY CLASS FOR SETTLEMENT PURPOSES  
AND TO APPROVE CLASS SETTLEMENT AND NOTICE**

NOW COME Plaintiffs, Martha “Marty” Blenko, Laura Mullarky, and Jane Doe, and Defendant Cabell Huntington Hospital, Inc., by and through counsel, and pursuant to Rules 23 and 54(d)(2) and MOVE this Honorable Court to certify this proceeding as a class action against Defendant Cabell Huntington Hospital, Inc. for settlement purposes and to approve the settlement as set forth in the Mediation Agreement. (Ex. 1, 2.) The substantial grounds upon which this motion is based are set forth in the supporting memorandum of law.

1. Plaintiffs moves this Court to certify a class defined as follows:

211 non-union retirees from Cabell Huntington Hospital, Inc. who received notification in 2021 of a curtailment or termination in their retiree healthcare benefits.

2. Defendant served as the plan administrator for the Plaintiffs’ retirement welfare benefits plan.

3. The Parties agreed to settle this matter pursuant to Rule 23(b)(3) of the *Federal Rules of Civil Procedure* regarding Plaintiffs' allegations that Defendant's agents made material misrepresentations in substantially the same form to all Affected Individuals, indicating that the Hospital would provide cost-free retiree health insurance for Pre-65 retirees, and Medicare supplemental benefits thereafter throughout the lives of retirees. Defendant denies the allegations but nonetheless agrees to this class action settlement.

**WHEREFORE**, Plaintiffs and Defendant move this Honorable Court pursuant to Rule 23 to:

- (A) Conditionally certify a class of 211 non-union retirees from Cabell Huntington Hospital, Inc. who received notification in 2021 of a curtailment or termination in their retiree healthcare benefits.
- (B) Order notice to proposed Class Members.
- (C) Schedule a fairness hearing to review the terms of the settlement.
- (D) Authorize Plaintiffs' counsel to issue notice to the class regarding the proposed settlement and fairness hearing.

**Respectfully Submitted,  
MARTHA BLENKO and  
LAURA MULLARKY, individually  
and on behalf of all others similarly  
situated,  
By counsel:**

/s/ Samuel B. Petsonk  
Samuel B. Petsonk (State Bar ID No. 12418)  
Petsonk PLLC  
PO Box 1045  
Beckley, WV 25802  
(304) 900-3171 (phone)

(304) 986-4633 (fax)

[sam@petsonk.com](mailto:sam@petsonk.com)

Bren J. Pomponio (WVSB #7774)

Laura Davidson (WVSB #13832)

Mountain State Justice, Inc.

1217 Quarrier Street, Suite

Charleston, West Virginia 25301

(304) 344-3144

(304) 344-3145 (fax)

[bren@msjlaw.org](mailto:bren@msjlaw.org)

[laura@msjla.org](mailto:laura@msjla.org)

**Reviewed by:**

**Cabell Huntington Hospital, Inc.**

By counsel,

/s/ David S. Amsbary

David D. Amsbary (W. Va. Bar No. 9968)

Melissa Eakle Leasure (W. Va. Bar No. 10327)

Bailes, Craig, Yon & Sellards, PLLC

401 10th Street, #500

Huntington, West Virginia 25701

Telephone: (304) 697-4700

Facsimile: (304) 697-4714

Email: [tlc@bcysfirm.com](mailto:tlc@bcysfirm.com)

Email: [dda@bcysfirm.com](mailto:dda@bcysfirm.com)

Email: [mel@bcysfirm.com](mailto:mel@bcysfirm.com)

and

/s/ Robert M. Duncan

Robert M. Duncan, Jr. (Ky. Bar No. 89821) (pro hac vice)

Dinsmore & Shohl LLP

100 West Main Street, Suite 900

Lexington, Kentucky 40507

Telephone: (859) 425-1000

Facsimile: (859) 425-1099

Email: [robert.duncan@dinsmore.com](mailto:robert.duncan@dinsmore.com)

and

/s/ David R. Stone

David R. Stone (W. Va. Bar No. 12824)  
Dinsmore & Shohl LLP  
215 Don Knotts Blvd., Suite 310  
Morgantown, West Virginia 26501  
Telephone: (304) 296-1100  
Facsimile: (304) 296-6116  
Email: [david.stone@dinsmore.com](mailto:david.stone@dinsmore.com)